IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 9284 of 2007(E)

PETITIONER:

HILLWOOD FURNITURE (P) LIMITED,
CHUNGAM, CALICUT BY SMT.C.P.SUHARA, DIRECTOR.

BY ADV. SRI.P.RAGHUNATH

RESPONDENTS:
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1. **ASST.COMMISSIONER (KVAT),**
   COMMERCIAL TAXES, SPECIAL CIRCLE II,
   CALICUT.

2. **COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAXES CHECK POST, FEROKE.

3. **INTELLIGENCE OFFICER (IB),**
   COMMERCIAL TAXES, KOLLAM.

4. **INSPECTING ASST.COMMISSIONER,**
   COMMERCIAL TAXES, KOZHIKODE.

5. **SALES TAX OFFICER (RECOVERY),**
   OFFICE OF THE INSPG.ASST.COMMISSIONER,
   COMMERCIAL TAXES, KOZHIKODE.

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.9284/2007 E

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF INV.NO.493 DTD. 14/02/2006.**

EXT.P2: **COPY OF DEL.NOTE NO.072300 DTD. 14/02/2006.**

EXT.P3: **COPY OF DETENTION NOTICE ISSUED BY SECOND RESPONDENT DATED 14/02/2007.**

EXT.P4: **COPY OF PROCEEDINGS OF THE FIFTH RESPONDENT DTD. 20/02/2007.**

EXT.P5: **COPY OF REQUEST MADE TO THE FIRST RESPONDENT FOR DEL.NOTES.**

EXT.P6; **COPY OF ACKNOWLEDGMENT RELATING TO EXT.P5.**

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.9284 of 2007-E

Dated this the 21st day of March, 2007

JUDGMENT

The petitioner has approached this Court challenging Ext.P3 notice detaining the consignment of the petitioner along with the vehicle. The reasons given in the notice for detaining the consignment are the following:-

> i). The Intelligence Officer (IB) Kollam has informed that the Hill Wood Import and Exports is a defaulter in payment of huge amount of penalty, and
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> ii). The Inspecting Asst. Commissioner, Kozhikode has directed to detain all the vehicles of the group of Hill Wood companies as per letter No.A7-3131 /13-2-07.

2. The petitioner submits, the consignment belongs to Hill Wood Import and Exports and the petitioner is not a defaulter and therefore the detention of the goods for the default of another company is not justified.

3. The learned Government Pleader, upon instruction, submitted that the vehicle KL-11 W 8112 carrying the consignment belongs to the Managing Director of Hill Wood Imports and Exports Private Limited. That is the reason for detention of the vehicle.

4. The petitioner submits, the respondents have no power to detain the vehicle under Section 47 (4) of the Kerala Value Added Tax Act, 2003.

Only the goods can be detained. But, the assets of the defaulter can be detained by virtue of the provisions of the Revenue Recovery Act. So, even if a wrong provision is mentioned, the detention cannot be interfered with, if the same can be justified relying on other provisions of the Act. So, if the vehicle belongs to the Managing Director of the defaulter company, the same cannot be interfered with. If the petitioner has moved for delivery notes, sufficient number of delivery notes authenticated shall be released to it having regard to the business requirements of the petitioner company.

5. If the petitioner is not a defaulter, the consignment in respect of which Ext.P3 has been issued shall be released to the petitioner. If the vehicle belongs to the Managing Director of the afore-mentioned defaulter, the respondents can detain it.

K.BALAKRISHNAN NAIR, JUDGE.

MS